

RE: [EXTERNAL] Re: Gary Landfill Consent for Access

From: Jones, Lila (ENRD) (lila.jones@usdoj.gov)
To: jimnowacki@yahoo.com
Cc: cahn.jeff@epa.gov; werner.leah@epa.gov 983708
Date: Wednesday, May 31, 2023 at 11:04 PM CDT

Mr. Nowacki,

Per your request, an updated consent for access is attached with a new Paragraph number 6 (it appears at the top of page 2) that states that the agreement is effective until December 31, 2029.

Please sign and return this today, June 1st, before the end of the day.

Thank you,

Lila C. Jones
U.S. Department of Justice
202-514-9859

This message contains confidential information and is intended only for the individual named. If you are not the named addressee, do not disseminate, distribute or copy this email. Please notify the sender immediately if you have received this email by mistake.

From: Jim Nowacki <jimnowacki@yahoo.com>
Sent: Wednesday, May 31, 2023 3:56 PM
To: Jones, Lila (ENRD) <Lila.Jones@usdoj.gov>
Subject: Re: [EXTERNAL] Re: Gary Landfill Consent for Access

Dear Ms. Jones:

Please add the end date of the term of this agreement to be 2029 as we had previously discussed.

Once that is done, I am willing to sign the agreement.

If you need to extend it beyond 2029, I am sure you will contact me to do so then.

Sincerely,
Jim Nowacki

On Wednesday, May 31, 2023 at 12:29:43 PM CDT, Jones, Lila (ENRD) <lila.jones@usdoj.gov> wrote:

Thank you for your follow-up email.

You are correct, you retain the right to revoke access. If you decide revoke access at some future date, we will proceed with alternative means of securing access without your consent. If you would like to revoke access in 2029, that is your prerogative. The year does not need to be in writing in the document because nothing in this document waives your rights to revoke access in 2029 or at any other time.

Thank you,

Lila C. Jones

U.S. Department of Justice

202-514-9859

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From: Jim Nowacki <jimnowacki@yahoo.com>
Sent: Wednesday, May 31, 2023 12:48 PM
To: Jones, Lila (ENRD) <Lila.Jones@usdoj.gov>
Subject: Re: [EXTERNAL] Re: Gary Landfill Consent for Access

Dear Ms. Jones, Thank you for your clarification on our points (1) & (2). In further clarification regarding point (3) we agreed the term of this agreement would up till 2029, that I retain the authority to withdraw this permission, with service of notice and that you then have the option "to proceed accordingly". In clarification of point (4) we agreed I would be provided with interim status reports - when available - as well as a final report. if you can confirm these points we are in agreement. thank you.

On Tuesday, May 30, 2023 at 09:11:22 AM CDT, Jones, Lila (ENRD) <lila.jones@usdoj.gov> wrote:

Good Morning Mr. Nowacki,

Thank you for your email. I have addressed each of your questions below.

Please note, if we do not receive a signed copy via email or confirmation from the Postal Service that a hard copy has been mailed by tomorrow May 31st, we will presume you are declining to provide access and will proceed accordingly.

1. that the degraded containers (drums) would be removed from the property.

a. In order to remove the drums, we need your permission to access your property. As stated in my initial email, **we are prepared to remove the drums but cannot do so until you provide permission to enter.** This does not need to be part of the Consent for Access because it is a one-time removal that will be completed when you grant us permission to enter your property. If you would like us to take care of this immediately, please respond to this email with the following: **"I consent to EPA and its authorized representatives entering on to my property located at 479 North Cline Avenue, Gary, Lake County, Indiana, effective immediately, to remove the storage containers on that property. This permission to enter the property is effective until the container removal is complete."**

2. that any material stored in the future would be stored in containers that would not degrade.

a. **Paragraph number 3 requires EPA to instruct its authorized representatives "that items stored on the Site shall be kept in a manner that prevents against their corrosion and/or degradation."** This is intended to address your concern. We cannot include language that is more specific because regulations and laws govern how various substances may be stored.

3. that the length of this agreement is stated in the agreement.

a. **This Consent for Access is intended to serve for as long as there is work required at the Site and therefore does not have an end date.** As we discussed on the phone, the contamination at the Site is extensive and we anticipate it will take many years to understand and address that contamination. EPA and its authorized representatives need access for an indefinite period. If you are not able to agree to that in this Consent for Access, we will proceed with alternative means of securing access.

4. that I receive interim reports.

a. **A provision to provide you reports is included as Paragraph 4.** We cannot commit to specific timelines for these reports because we do not know in advance when they will be complete. We have committed, however, to providing these reports to you, when final, at no cost to you.

Please sign and return the Consent for Access by tomorrow, May 31. If we do not receive a signed copy via email or confirmation that a hard copy has been mailed by tomorrow May 31st, we will presume you are declining to provide access and will proceed accordingly.

Thank you,

Lila C. Jones

U.S. Department of Justice

202-514-9859

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From: Jim Nowacki <jimnowacki@yahoo.com>
Sent: Friday, May 26, 2023 10:34 AM
To: Jones, Lila (ENRD) <Lila.Jones@usdoj.gov>
Cc: Jim Nowacki <jimnowacki@yahoo.com>
Subject: [EXTERNAL] Re: Gary Landfill Consent for Access

Dear Ms. Jones:

Having reviewed the letter, I would hope that a few things can be included to comport with our earlier conversation.

They are as follows:

2) that any material stored in the future would be stored in containers that would not degrade.

3) that the length of this agreement is stated in the agreement.

4) that I receive interim reports.

In addition, I would like it to state that any material stored on my property in the future, will eventually be removed by the USEPA and/or its contractors prior to the end of the term of this agreement.

Sincerely,

Jim Nowacki

708-502-2339

On Wednesday, May 24, 2023 at 09:48:09 AM CDT, Jones, Lila (ENRD) <lila.jones@usdoj.gov> wrote:

Mr. Nowacki,

Attached is the consent for access we discussed when we spoke on Monday. I am also sending a copy via USPS overnight to your P.O. Box with a prepaid return envelope. Please use the prepaid envelope to mail the signed agreement no later than May 31. If you do not mail the signed Consent for Access by that date, we will presume you are refusing to grant access and will proceed accordingly.

Please note the hard copies you receive will include two copies, one is for your records and one is for you to return with your signature.

As we discussed when we spoke, EPA is arranging for the barrels currently on your property to be removed. If you are willing to grant access to EPA and its authorized representatives to enter on to your land to remove those barrels, please reply-all to this email with the following:

"I consent to EPA and its authorized representatives entering on to my property located at 479 North Cline Avenue, Gary, Lake County, Indiana, effective immediately, to remove the storage containers on that property. This permission to enter the property is effective until the container removal is complete."

Thank you,

Lila C. Jones

Trial Attorney

Environmental Enforcement Section

U.S. Department of Justice

P.O. Box 7611

Washington, DC 20044-7611

Overnight mail:

4 Constitution Square

150 M Street, NE

ENRD Room 5.138

Washington, DC 20002

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Gary_Updated_Consent_for_Access_5_31_23.pdf
132.4kB



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

CONSENT FOR ACCESS TO PROPERTY
Gary Development Landfill Superfund Site
Gary, IN

Name: James Nowacki

Address of Property: 479 North Cline Avenue, Gary, Lake County, Indiana

1. I, James Nowacki, consent to officers, employees, contractors, and authorized representatives of the United States Environmental Protection Agency ("U.S. EPA") and the Indiana Department of Environmental Management ("IDEM") entering and having continued access to the property located at 479 North Cline Avenue, Gary, Lake County, Indiana (the "Site") for the following purposes:
 - a. Containing hazardous materials present at the Site;
 - b. Conducting monitoring and sampling activity at the Site, including but not limited to visual inspection, inventory, photograph documentation, air monitoring, soil screening, soil sampling, water screening, water sampling, container sampling, well sampling, soil borings, test pits, groundwater sampling, and long-term monitoring through installation of groundwater wells;
 - c. Preparing for and disposing of hazardous materials;
 - d. Performing other actions to investigate contamination at the Site that U.S. EPA may determine to be necessary; and
 - e. Taking any response action to address any release or threatened release of a hazardous substance, pollutant or contaminant which U.S. EPA determines may pose an imminent and substantial endangerment to the public health or the environment.
2. I agree that U.S. EPA and its authorized representatives may store items, including barrels and/or drums on my parcel.
3. U.S. EPA agrees to instruct its authorized representatives that items stored on the Site shall be kept in a manner that prevents against their corrosion and/or degradation.
4. U.S. EPA agrees to provide, via email, to James Nowacki, at no expense, true and accurate copies of final sampling reports generated in connection with the activities described above after the final form of such reports are received by U.S. EPA.
5. I agree that Attachment 1, the map of the Site, is incorporated into this Agreement by reference.

6. I agree that this Consent for Access is effective until **December 31, 2029**.

This written permission is given by me voluntarily with knowledge of my right to refuse and without threats or promises of any kind, and without any admission of any liability, fault, or wrongdoing and fully reserving all rights, claims, and defenses.

June 6, 2023
Date

Jim Nowacki
Signature

JAMES NOWACKI
Printed Name